

EXHIBIT A

THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

* * * * *

HEADWATER RESEARCH, LLC	*	NO. 2:22-CV-422-JRG-RSP
	*	Marshall, Texas
VS.	*	9:00 a.m. - 12:15 p.m.
	*	1:17 p.m. - 4:50 p.m.
SAMSUNG ELECTRONICS, et al	*	July 2, 2024

* * * * *

PRE-TRIAL PROCEEDINGS

BEFORE JUDGE ROY S. PAYNE
UNITED STATES MAGISTRATE JUDGE

* * * * *

Proceedings recorded by computer stenography
Produced by computer-aided transcription

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1 I'll see what I can do.

2 THE COURT: All right.

3 MR. DAVIS: So, with respect to Motion in
4 Limine No. 2, Samsung intends to argue at trial that
5 the plain meaning of a particular claim limitation,
6 such as '976 patent, Claim 1(f), has a requirement
7 that's not written in the claim. This is a belated
8 claim construction argument, it's barred by judicial
9 estoppel and waiver.

10 And this is what prompted Headwater's
11 MIL No. 2 because Samsung seeks to support this
12 argument with improper evidence. That's why
13 Headwater's Note 2 seeks to preclude the parties from
14 introducing or referring to IPR statements, testimony
15 of experts not testifying at trial, or related inventor
16 testimony for purposes of arguing the plain meaning of
17 a claim term.

18 Just as background, Your Honor, the
19 limitation at issue, Claim 1(f) of the '976 patent
20 requires "for a time period when data for Internet
21 service activities is communicated through a WWAN modem
22 connection to the at least one WWAN, apply a first
23 differential traffic control policy."

24 Now, in short, Samsung's position is that
25 the policy must be applied based on network type. And

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1 in other words, Samsung believes the policy needs to be
2 applied differently to WWAN networks, which would be
3 like a cellular network, versus WLAN networks, like a
4 wi-fi network. That's wrong for various reasons, but
5 focusing on the evidentiary problems is what we do with
6 respect to MIL No. 2.

7 So, if we could go to slide 29, what you
8 see listed here, Samsung seeks to introduce, as
9 supposed evidence of plain meaning, Headwater's POPR
10 from the '976 patent IPR proceeding. That's DX 389, as
11 well as deposition testimony from Headwater's claim
12 construction expert, Dr. Chrissan. That expert is not
13 coming to trial. And then relatedly, deposition
14 testimony from an inventor, James Lavine, who refers
15 explicitly to Dr. Chrissan's claim construction
16 testimony.

17 So, going on to the next slide, I'll
18 explain why all of this is improper. For starters,
19 introducing Headwater's POPR would plainly violate
20 Court MIL No. 6.

21 THE COURT: Let me interrupt you, Mr. Davis.
22 What do you rely upon to argue that Samsung's witness
23 is going to rely on the three items you have listed on
24 slide 29 to support what he contends is the plain
25 meaning of the claim?

1 THE COURT: I recall that argument.

2 MR. DAVIS: I'm sorry?

3 THE COURT: I recall that argument from
4 before the break. You don't need to repeat it now.

5 MR. DAVIS: I'm sorry, Your Honor.

6 And so I think it's clear that claim
7 construction is what Dr. Schonfeld is doing because
8 he's trying to add a limitation that we don't see in
9 the claim. Now, this is just sort of under the guise
10 of plain meaning. So, with that, I'm happy to answer
11 any questions you have, Your Honor.

12 THE COURT: All right, thank you, Mr. Davis.

13 I'm going to grant the Plaintiff's MIL
14 No. 2 to the extent of a reference by the witness to
15 the POPR and proceedings before the IPR. I'm going to
16 deny it as to the reliance upon Dr. Chrissan and
17 Mr. Lavine. And I'll consider those arguments further
18 to the extent they relate to the pending *Daubert*
19 motion. But if the MIL is granted just to the extent
20 of the IPR proceedings.

21 Which takes us to No. 3.

22 MR. PICKENS: Good morning, Your Honor. My
23 name is James Pickens here for Plaintiff Headwater to
24 address Headwater's Motion in Limine No. 3.

25 THE COURT: All right.